

Appl. No. 09/472,232
Amendment dated 4-03-03
Reply to Final dated 10/29/02

REMARKS/ARGUMENTS

Included in the above amendments is a correction of an error made in the previous amendment. The Examiner's recognition of this error is appreciated. Applicants have amended the claims to be directed to the elected subject matter. Applicants reserve the right to request the cancelled subject matter be re-joined with the elected subject matter if it would not be an undo burden to the Examiner. The Applicants have also amended the claims to in response to the rejections under 35 U.S.C. § 112, first paragraph. These amendments do not limit the intended scope of these claims.

New claims 26 -34 fall within the original scope of claims 1 and 15. Claim 26 recites a preferred method for treating specific conditions. Support for this claim is found on page 2, lines 14-17.

The proposed amendments are in response to issues raised or already considered by the examiner and so Applicants submit they are appropriate under 37 C.F.R. § 1.116. The new claims fall within the scope of the original claims and do not raise new issues.

Rejection under 35 U.S.C. § 112, first paragraph

It is alleged the claims herein are not analogous to the claims presented in *Ex Parte Henning*, U.S. patent 6,310,068, such that the rejection under 35 U.S.C. § 112, first paragraph has been maintained. Applicants submit that the language in their claims is actually more precise than that employed in the method claims of U.S. 6,310,068.

The examiner alleges the compounds of *Henning* were disclosed to have 5-HT_{1A} antagonistic or serotonin inhibitory activities, which were said to be well established in the art. However, the claim at issue in *Henning* was not a compound claim and these "well established" activities were not limitations of that claim. The activities mentioned in the method claim of *Henning* were "anxiolytic, antidepressant, antipsychotic, neuroleptic or antihypertensive"

activities. The Board found the scope of this claim with these activities (symptoms) to be discernable by one of ordinary skill in the art. The activity defined in the methods claimed herein, "a disease mediated by raf kinase," is more clearly discernable than the symptoms recited by *Henning*. That this language encompasses more than the treatment of cancer does not render the claim ambiguous. The examiner has not identified any evidence to the contrary.

The examiner provides a definition for the word "disease" but this definition is not ambiguous and no evidence has been provided to suggest the phrase in which applicant uses the word is ambiguous.

In *Henning*, the board referred to the inhibitory activity of the compounds disclosed in the application as a sufficient teaching to support treatments of the conditions recited in the claims. Applicants have disclosed the recited compounds have raf inhibitory activity. In claims 15- 23, the conditions treated are essentially defined by a relationship to raf, i.e., they are mediated by raf. Therefore, the methods herein are more clearly prescribed by the inhibitory activity of the compounds employed than the methods of *Henning*. The examiner has not provided any evidence that one skilled in the art, with the disclosure in the specification of the raf kinase inhibiting activity of the recited compounds, would not have a sufficient teaching to treat conditions mediated by raf kinase.

It is alleged there is nothing in the specification to enable one skilled in the art to use the compounds to treat all diseases mediated by raf kinase. No evidence has been presented to support this allegation. The specification provides sufficient guidance with respect to modes of administration and dosage ranges for one skilled in the art to inhibit raf and treat a raf mediated disease without undue experimentation.

Claims 1-10, 17 and 24

The Examiner maintains that there is no support for the definition of Ar as "5-10 numbered aromatic structures." Applicants maintain there is support for this language through

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the definition of Q¹ found in original claims 4 and 18 and on page 6, lines 10-14 of the specification. Here Q¹ is defined as "a mono or bicyclic aromatic structure of 3-10 carbon atoms and 0-4 members of group consisting of N, O and S." The moiety "Q¹" conforms to the moiety "Ar" in that it is bound to the cyclic structure of B through a group "Y," now defined as "M".

To avoid this ambiguity, Applicants have amended the claims and specification so as to recite a consistent variable for this structure. The variables Q¹ and Ar have been replaced with the variable "L¹". The variable "Y" has been replaced with the variable "M". This is made to conform the symbol with those used in related applications.

Claims 3 and 17

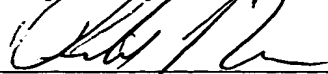
The Examiner maintains that claims 3 and 17 are broader than the claims upon which they depend in that the definition of R⁵ includes "up to per-halosubstituted C₆₋₁₄ aryl" and "up to per-halosubstituted C₃₋₁₃ hetaryl." Although claims 3 and 17 have been cancelled, this language has been inserted into the broad independent claims 1 and 15 so as to clearly provide support for this subject matter. In making this amendment, Applicants do not concede that the original language of claims 1 and 15 did not provide the requisite support.

Based on the above remarks, Applicants submit that all claims are in form suitable for allowance. Therefore, withdrawal of the rejections and allowance of these claims are earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

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Respectfully submitted,



Richard J. Traverso, Reg. No. 30,505
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

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